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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/875,753	06/06/2001	Olaf Vancura	1498/198(b)	8046
23381	7590	05/24/2004	EXAMINER	
DORR CARSON SLOAN & BIRNEY, PC 3010 EAST 6TH AVENUE DENVER, CO 80206			PIERCE, WILLIAM M	
			ART UNIT	PAPER NUMBER
			3711	24

DATE MAILED: 05/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.



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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

Paper No. 21

Application Number: 09/875,753  
Filing Date: June 06, 2001  
Appellant(s): VANCURA, OLAF

Arthur Steiner  
For Appellant

SUPPLEMENTAL EXAMINER'S ANSWER

MAILED  
MAY 24 2004  
GROUP 3700

NOTE: The Boards attention is drawn to copending application 10/372,724 also on appeal.

Pursuant to the Remand under 37 CFR 1.193(b)(1) by the Board of Patent Appeals and Interferences on 8/26/03, a supplemental Examiner's Answer is set forth below:

1) There exists no new possible grounds for rejection. On pg. 2, Ins. 7-10 of Remand, the Board refers to the Examiner's references made to subject matter contained in Thomas, Perrie, Marnell and Walker in his Answer. In doing so they question where or not this constitutes a new grounds for rejection. However, it should be recognized that it is appropriate to cite prior art not relied to develop only a portion of what is known in the art at the time of the invention. As mentioned in the Answer (pg. 8, In. 190, these references shows the general skill of one practicing in the art of gaming and the motivation that would provide such persons. See In re Berg, 65 USPQ2d 2003 (Fed. Cir. 2003). These references were cited for the convenience of the Board who may not be readily familiar with the play of wagering games as appellant and examiner. Lastly with respect to this issue, it is incumbent upon the examiner to reply to each and every argument advance by appellant in his Brief. With the features being argued by appellant as

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being so notorious in video poker, a stronger rebuttal was deemed to cite a reference showing the general level of skill in the art rather than to have the examiner describe in his own words how the many variations of video poker are played. Hence, the remarks made pertaining to the subject matter contained in the references above are provided in the Answer to merely rebut arguments advanced by appellant and to show the general skill of one practicing in the art and are not considered to be a new grounds for rejection.

2) The IDS filed 5/3/02 has been considered. A copy of the PTO-1449 is appended to this Supplemental Examiner's Answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

May 17, 2004

  
WILLIAM M. PIERCE  
PRIMARY EXAMINER

DORR CARSON SLOAN & BIRNEY, PC  
3010 EAST 6TH AVENUE  
DENVER, CO 80206

